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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,427	03/13/2001	Peter Andersen	670001-2002.5	2084
20999	7590	03/18/2004	EXAMINER	
FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			SWARTZ, RODNEY P	
			ART UNIT	PAPER NUMBER
			1645	

DATE MAILED: 03/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/805,427

Applicant(s)

ANDERSEN ET AL.

Examiner

Rodney P. Swartz, Ph.D.

Art Unit

1645

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15January2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☒ Applicant's reply has overcome the following rejection(s): see detailed action attached.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 1-7,9-11,21,28-30 and 32-37.

Claim(s) objected to: _____.

Claim(s) rejected: 23, 25-27.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

DETAILED ACTION

1. Applicants' Response to Final Office Action, received 15 January 2004, is acknowledged. Claims 1, 9, 11, 21, 25, and 27 have been amended. Claims 8, 12-20, 22, 24, and 31 have been cancelled. New claims 32-37 have been added.

2. Claims 1-7, 9-11, 21, 23, 25-30, and 32-37 are pending and under consideration.

Rejections Moot/Withdrawn

3. The rejection of claim 8 under 35 U.S.C. 112, second paragraph, indefiniteness, is moot in light of the cancellation of the claim.

4. The rejection of claims 1-7, 9-11, 21, 28-30 under 35 U.S.C. 112, second paragraph, indefiniteness, is withdrawn in light of the amendment of the claims.

5. The rejection of claim 8 under 35 U.S.C. 112, first paragraph, scope of enablement for a vaccinating agent constructed from *M. tuberculosis* proteins which cross-protects against any/all other species of the genus *Mycobacterium*, is moot in light of the cancellation of the claim.

6. The rejection of claims 9, 11, 25, and 27 under 35 U.S.C. 112, first paragraph, scope of enablement for a vaccinating agent constructed from *M. tuberculosis* proteins which cross-protects against any/all other species of the genus *Mycobacterium*, is withdrawn in light of the amendments of the claims.

7. The objection to claim 25 because of the following informalities: line 3, "composion", is withdrawn in light of the amendment of the claim.

8. The rejection of claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, is withdrawn in light of the cancellation of the claim.

Rejections Maintained

9. The rejection of claims 23 and 25-27, under 35 U.S.C. 112, second paragraph, indefiniteness, is maintained for the reasons put forth in the prior rejection statements.

The amendments of claims 25 and 27 do not correct the indefiniteness of the rejection.

Claims 23 and 26 have not been amended.

Conclusion

10. Claims 23 and 25-27 remain rejected. Claims 1-7, 9-11,21, 28-30, and 32-37 appear to be free of the prior art of record.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney P. Swartz, Ph.D., Art Unit 1645, whose telephone number is (571) 272-0865. The examiner can normally be reached on Monday through Thursday from 5:30 AM to 4:00 PM EST.


If attempts to reach the Examiner by telephone are unsuccessful, the examiner's supervisor, Lynette F. Smith, can be reached on (571)272-0864.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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RODNEY P. SWARTZ, PH.D.
PRIMARY EXAMINER
Art Unit 1645

March 17, 2004